

Regular Session, 2010

HOUSE BILL NO. 254

BY REPRESENTATIVES LEGER AND GARY SMITH

CRIMINAL/PROCEDURE: Authorizes certain individuals to view certain videotaped statements

1 AN ACT

2 To amend and reenact R.S. 15:440.5(C), relative to videotaped statements of protected  
3 persons; to authorize certain individuals to view certain videotaped statements of a  
4 protected person; to provide with respect to copies of the videotape and a transcript  
5 of the videotaped statement; to provide for possession of the copy or transcripts; and  
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:440.5(C) is hereby amended and reenacted to read as follows:

9 §440.5. Admissibility of videotaped statements; discovery by defendant

10 \* \* \*

11 C. In a criminal prosecution, when the state intends to offer as evidence a  
12 copy of a videotaped oral statement of a protected person made pursuant to the  
13 provisions of this Subpart, the defendant, through his attorney only, may be provided  
14 a copy of the videotape if the court determines it necessary to prepare a proper  
15 defense. If the defendant's attorney is provided a copy of the videotaped statement  
16 by court order or by permission of the district attorney, only ~~the attorney and the~~  
17 defendant persons involved in preparing the defense of the instant charges shall be  
18 permitted to view the tape, including but not limited to the attorney, the defendant,  
19 and any expert and investigator retained by the attorney. ~~and no~~ Other than a  
20 transcript of the videotaped oral statement, no copies of the videotape shall be made

1 by any person, except for use as trial exhibits. The copy, and any transcripts, shall  
2 be securely retained by the defendant's attorney at all times and shall not be  
3 possessed, transferred, distributed, copied, or viewed by any unauthorized party. It  
4 shall be the affirmative duty of the defendant's attorney to return the videotape to the  
5 court immediately upon conclusion of the case but in all cases prior to sentencing.  
6 A defendant who appears pro se in a criminal proceeding shall be allowed reasonable  
7 access to the videotape of a protected person only with an order of the court and  
8 under court-directed supervision. The tape shall be filed as part of the record under  
9 seal by the clerk of court for use in subsequent legal proceedings or appeals and shall  
10 only be released upon motion of the state or counsel of record with an order of court  
11 and in compliance with this Section. Any violation of this Subsection shall be  
12 punished as contempt of court. Any person who makes an unauthorized disclosure  
13 of the videotape or its contents may also be subject to liability for civil damages,  
14 including punitive damages.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Leger

HB No. 254

**Abstract:** Authorizes certain individuals to view certain videotaped statements of a protected person.

Present law authorizes the use of videotaped statements of protected persons. Defines "protected person" as a crime witness or victim who is either under the age of 17 or has a developmental disability.

Present law provides that if a copy of the videotaped statement is provided to the defendant's attorney, only the defendant and his attorney are permitted to view the tape.

Proposed law changes present law and authorizes any person involved in preparing the defense, including but not limited to any expert and investigator retained by the defense, to view the videotaped statement of a protected person.

Present law provides that no copies of the videotaped statement shall be made by any person.

Proposed law amends present law and provides that transcripts and copies of the videotaped statement may be made if they will be used as exhibits for trial.

Proposed law retains present law and provides that the transcripts and copies of the videotaped statement shall be securely retained by the defendant's attorney at all times and shall not be given to or viewed by an unauthorized party.

(Amends R.S. 15:440.5(C))